

ORDINANCE NO. 08-86

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REVISING THE FINAL HIALEAH, FLA., LAND DEVELOPMENT CODE TO REFLECT PERTINENT CHANGES TO THE HIALEAH CODE AND RELEVANT CHANGES IN STATE LAW ENACTED SINCE THE DATE OF THE LAST REVISION, INCLUDING, BUT NOT LIMITED TO, AMENDING LAND DEVELOPMENT REGULATION NO. 1 ENTITLED "LAND DEVELOPMENT PROCEDURES"; AMENDING LAND DEVELOPMENT REGULATION NO. 2 ENTITLED "USES OF LAND AND WATER"; AND AMENDING LAND DEVELOPMENT REGULATION NO. 7 ENTITLED "SIGN REGULATION"; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE HIALEAH, FLA., LAND DEVELOPMENT CODE AND THE HIALEAH CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 8, 2008 recommended approval of this ordinance; and

WHEREAS, the purpose and intent of this ordinance is to revise the Hialeah, Fla., Land Development Code to reflect changes in the planning regulations and policies, Hialeah Code and Florida law enacted since the last revision pursuant to Hialeah, Fla., Ordinance 07-87 (Oct. 11, 2007); and

WHEREAS, the incorporation of these changes are required so that provisions of the Hialeah, Fla. Land Development Code correspond to the existing Hialeah Code provisions to provide a uniform set of land development regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Hialeah, Fla., Land Development Code as incorporated in the Code of Ordinances of the City of Hialeah, Florida is hereby revised and amended to read as follows:

PART III

LAND DEVELOPMENT CODE

* * *

INTRODUCTION

* * *

**REGULATION NO. 1. LAND DEVELOPMENT
PROCEDURES**

* * *

**Sec. 1-2. Procedures for application for development
orders.**

* * *

(e) *Applications for reversion to prior zoning
classifications.*

* * *

(3) *Departure, change in use or violations of grant of CUP (conditional use permit). CUP (conditional use permit) is a grant for a specific permitted use within a zoning district that has an extraordinary impact with the surrounding neighborhood or area, not with: cemeteries, community correctional centers or prisons, public garages, funeral homes, hospitals, houses of worship, motels, and hotels, child day care facilities that are not state-licensed or state-registered family day care homes on property zoned R-1, private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities. The procedure for property to revert back to its zoning classification without the benefit of the CUP when there is a departure, change in use or violation of the approved CUP is by repeal and rescission of the ordinance granting the CUP. The procedure may be initiated by application of the city, property owner or objector.*

* * *

Sec. 1-12. Hialeah Heights.

*

*

*

(c) Redevelopment of landfill sites.

On properties under a closure plan approved by county department of environmental resources (DERM), on properties that have finalized such closure plan or on properties that will be required to enter into a closure plan with DERM prior to redevelopment, the city will allow the elevation and slope of the land that was formerly used as a landfill for which buildings and structures shall be constructed to be limited as follows:

(1) The elevation of land less than or equal to 20 acres shall not exceed 14 feet from the crown of the road that is either adjacent to, abutting, or in the closest proximity to, the land. The measurement includes the additional layer of clean fill that is required to be placed on top of property that was used as a landfill. If there is a corner lot or property where a property abuts two right-of-ways where the crown of the road of each right-of-way is measured at different heights, the crown of the abutting right-of-way that is higher shall apply for the entire property.

(2) The elevation of land that is greater than 20 acres developed as one site or as phased development titled under the same property owner or affiliated company shall conform to the following topography:

Maximum percentage of total gross acreage Maximum elevation

<u>20%</u>	<u>12 feet*</u>
<u>25%</u>	<u>17 feet*</u>
<u>30%</u>	<u>22 feet*</u>
<u>25%</u>	<u>25 feet*</u>

* As measured from the crown of the road that is either adjacent to, abutting, or in the closest proximity to, the land. The measurement includes the additional layer of clean fill that is required to be placed on top of the property that was used as a landfill. If there is a corner lot or

property where a property abuts two right-of-ways where the crown of the road of each right-of-way is measured at different heights, the crown of the abutting right-of-way that is higher shall apply for the entire property.

(3) *Slope.* The slope of the property shall be no greater than the angle of 10 degrees.

For land greater than 20 acres developed as one site or as phased development titled under the same property owner or affiliated company, the slope of the land may exceed an angle greater than 10 degrees but no greater than 20 degrees only to allow adjustments for stormwater retention and landscape berms and swales; provided, however, that the slope of all vehicular rights-of-way and pedestrian pathways not exceed the angle of 10 degrees at all locations. In addition, ancillary retaining walls may be constructed to accommodate the difference between maximum elevations if such walls include stairs or a ramp and otherwise are integrated into the surrounding buildings or structures.

(4) *Properties fronting the western edge of NW 97 Avenue (West 36 Avenue).* The first 1,320 feet adjacent to the property line shall have the lowest land elevation of the property. If the first 1,320 feet adjacent to the property line contains an upwards slope, the slope should be gradual and subtle; without creating hills and valleys, except to provide a landscape berm or enclosure of a production water well that may be located at or near the right-of-way.

(5) The land elevations on the property shall be designed to promote pedestrian access and the connectivity of the street network.

(6) Prior to the issuance of the building permit, the applicant shall obtain city approval of a land elevation plan than complies with the requirements of this section.

*

*

*

REGULATION NO. 2. USES OF LAND AND WATER

*

*

*

Sec. 2-3. Requirements for the use of land and water

* * *

(c) Conditional use permit (CUP) requirements.

(1) Section 98-181 provides for a conditional use permit (CUP) to all a use limited to a specific number of years and conditions of use for certain permitted uses within zoning districts that have extraordinary impacts on the surrounding neighborhood or area: cemeteries, community correctional centers or prisons, public garages, funeral homes, hospitals, houses of worship, hotels and motels, private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities. On property zoned R-1 (one-family district), a conditional use may be allowed for child day care facilities that are not state-licensed or state-registered family day care homes. If there is any departure, change or violation of the ordinance granting the CUP will be subject to revocation of an occupational license and repeal and rescission of the ordinance granting the CUP.

* * *

REGULATION NO. 7 SIGN REGULATION

* * *

Sec. 7-5. Legal nonconforming signs.

* * *

(e) Annual recertification of legal nonconforming billboards.

On or before October 1, 2007 and each year thereafter, the city shall recertify a legal nonconforming billboard located within the geographic limits of the city upon application of the sign owner or authorized representative together with payment of an annual certification fee in the amount of \$3,000 and upon a determination that the billboard is in compliance with city code provisions, Florida building code and technical codes adopted by the

city, after final inspection and approval by the building official. The sign owner shall obtain written permission from the property owner for city inspectors to enter private property to inspect the billboard at the time the application for recertification is submitted.

If a sign is not in compliance with the applicable codes, the city will provide a cure plan to correct the violations within a reasonable period of time. If the sign remains in noncompliance after the expiration of the curative time period, then the city shall revoke the annual sign permit in addition to other remedies provided in the Code or by law. If a sign owner does not recertify the billboard as provided herein, the city may suspend or revoke all occupational licenses issued to the property address of the property owner in addition to other remedies provided in the Code or by law.

*

*

*

Section 2: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Hialeah, Fla., Land Development Code and Hialeah Code.**

The provisions of this ordinance shall be included and incorporated in the Hialeah, Fla., Land Development Code and Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered

to conform to the uniform numbering system of the Hialeah, Fla., Land Development Code and the Hialeah Code.

Section 5: Severability Clause.

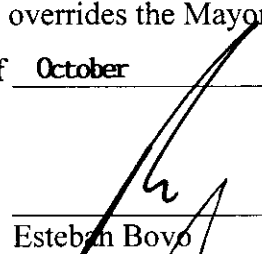
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled city council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 28th day of October, 2008.

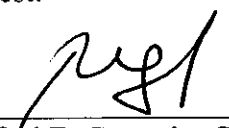
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



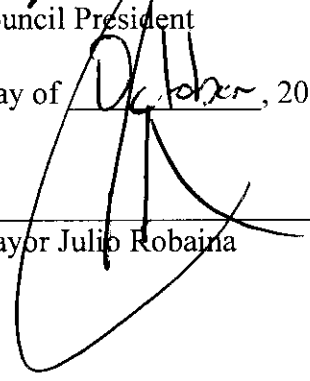
Esteban Bovo
Council President

Attest:

Approved on this 30 day of October, 2008.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

S:\WMG\LEGISLAT\ORD\Ordinance 2008\landdevelopmentcoderevision2008.docx

Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".